



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2023-0848]

RIN 1625-AA87

### Security Zone; Nantucket Memorial Airport and Abrams Point, Nantucket, MA

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

---

**SUMMARY:** The Coast Guard is establishing two 500-yard temporary security zones for all navigable waters adjacent to the Nantucket Memorial Airport and Straight Wharf as well as a 1,000-yard temporary security zone for all navigable waters adjacent to Abrams Point, Nantucket, Massachusetts. These security zones are needed to protect the persons under the protection of the United States Secret Service (USSS). Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sector Southeastern New England or a designated representative.

**DATES:** This rule is effective from November 21, 2023, through 11:59 p.m. on November 26, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0848 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email MST2 Christopher Matthews, Sector Southeastern New England, U.S. Coast Guard; telephone 401-435-2348, email [Christopher.S.Matthews@uscg.mil](mailto:Christopher.S.Matthews@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Southeastern New England
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The United States Secret Service (USSS) requested that the Coast Guard establish two 500-yard temporary security zones for all navigable waters adjacent to the Nantucket Memorial Airport and Straight Wharf as well as a 1,000-yard temporary security zone for all navigable waters adjacent to Abrams Point, Nantucket, Massachusetts. The purpose of the temporary security zone is to facilitate the security and safety of the persons under USSS protection.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive information regarding this event in time to publish NPRM and seek comments before the subject visit. Publishing an NPRM and delaying the effective date would be impracticable and contrary to the public interest as it would inhibit the Coast Guard’s ability to fulfill its statutory missions and jeopardize the safety of the persons under USSS protection during the visit.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective less than 30 days after publication in the **Federal Register**.

Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to ensure the safety of the person under USSS protection during the visit.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The USSS requested that the Coast Guard establish two 500-yard temporary security zones for all navigable waters adjacent to the Nantucket Memorial Airport and Straight Wharf as well as a 1,000-yard temporary security zone for all navigable waters adjacent to Abrams Point, Nantucket, Massachusetts. The purpose of the temporary security zone is to facilitate the security and safety of the persons under USSS protection during their visit to the area. As a result, in consultation with the USSS, the Captain of the Port Sector Southeastern New England (COTP) has determined that the security zones are necessary to provide security for the persons under USSS protection.

### **IV. Discussion of the Rule**

This rule establishes two 500-yard security zones for all navigable waters adjacent to the Nantucket Memorial Airport and Straight Wharf as well as a 1,000-yard temporary security zone for all navigable waters adjacent to Abrams Point, Nantucket, Massachusetts. No vessel or person will be permitted to enter the security zones from 12:01 a.m. on November 21, 2023, through 11:59 p.m. on November 26, 2023. Entry into these security zones is prohibited unless specifically authorized by the COTP or their designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of the U.S. Coast Guard Sector Southeastern New England.

Requests for entry will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 508-457-3211 or can be reached by VHF-FM

channel 16. Persons and vessels permitted to enter these security zones must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or their designated representative.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the security zones. These security zones will impact small, designated areas off Nantucket, Massachusetts for approximately six days during a time of year when vessel traffic is normally low. To alleviate the effects of this rule on the public, the COTP may elect to temporarily suspend enforcement of these security zones. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zones, and the rule allows vessels to seek permission to enter the zones.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the

various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves three security zones from November 21, 2023, through November 26, 2023, that will prohibit entry within 500 yards of Nantucket Memorial Airport and Straight Wharf as

well as 1,000 yards of Abrams point, Nantucket, Massachusetts. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T01-0848 to read as follows:

**§ 165.T01-0848 Security Zone; Nantucket Memorial Airport, Abrams Point and Straight Wharf, Nantucket, MA.**

(a) *Location.* The following areas are security zones: All navigable waters 500 yards from Nantucket Memorial Airport and Straight Wharf as well as 1,000 yards from Abrams Point, Nantucket, Massachusetts.

(b) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Southeastern New England (COTP) or the COTP's designated representative. Designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeastern New England.

(2) Vessels requiring entry into the security zones must request permission from the COTP or a designated representative. To seek entry into the security zones, contact the COTP or the COTP's representative by telephone at 508-457-3211 or on VHF-FM channel 16.

(3) Persons and vessels permitted to enter the security zones must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(c) *Enforcement period.* This section will be enforced from 12:01 a.m. on November 21, 2023, through 11:59 p.m. on November 26, 2023. To alleviate the effects of this section on the public, the COTP may elect to temporarily suspend enforcement of the security zones.

**Clinton J. Prindle,**  
*Captain, U.S. Coast Guard,*  
*Captain of the Port Sector Southeastern New England.*

[FR Doc. 2023-25956 Filed: 11/21/2023 8:45 am; Publication Date: 11/22/2023]